

—39. A pharmaceutical composition according to claim 38, wherein said matrix material is a biocompatible porous material that can be biologically degraded.--

—40. A pharmaceutical composition according to claim 32, further comprising a pharmaceutically acceptable carrier, diluent or filler.--

—41. A protein according to claim 30, wherein the protein is a dimer.--

REMARKS

In the Office Action dated November 25, 2002, claims 6, 9, 11, 13, 16, 20-22 and 24-29, in the above-identified U.S. patent application were rejected. Reconsideration of the rejections is respectfully requested in view of the above amendments and the following remarks.

Claims 11 and 27 were rejected under 35 USC §102(e) as anticipated by Lee. In order to further the prosecution of the present application, all of the prior claims have been canceled and new claims added to the application which do not reference the sequence that the Examiner believes to be anticipated by Lee. This subject matter will be pursued in a divisional application. Applicants contend that Lee does not anticipate the newly added claims and request that this rejection be withdrawn.

Claims 9, 11, 13, 16, 20 and 24-27 were rejected under 35 USC §103(a) as unpatentable over Lee in view of Oppermann. As discussed above, all of the prior claims have been canceled and new claims added to the application which do not reference the sequence that the Examiner believes to be anticipated by Lee. Oppermann discloses pharmaceutical composition for bone induction but does not suggest or disclose the

sequences recited in the present claims. In view of this, applicants contend that Lee in combination with Oppermann does not render the present claims obvious and request that this rejection be withdrawn.

Claims 6, 9, 11, 13, 16, 20-22 and 24-29 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-6 of U.S. Patent No. 6,120,760. A terminal disclaimer is attached to this response.

Claims 28 and 16 were rejected under 35 USC §112, second paragraph, as indefinite. All of the prior claims have been canceled and the new claims added to the application which do not include the language found indefinite. Regarding the term "dental implant" in claim 16, applicants point out that dental implants were well known in the art at the time the present invention was made. U.S. Patent No. 5,118,667, column 7, lines 7-64, describes dental implants which include bone growth factors. U.S. Patent No. 5,118,667 does not suggest or disclose the presently claimed proteins but one skilled in the art would be able to prepare and use a dental implant according to the present invention in view of the knowledge in the art. Attached to this response are copies of articles from The International Journal of Oral and Maxillofacial Implants, the Journal of Oral and Maxillofacial Surgery, and the Journal of Periodontology, which shows that dental implants which use osteogenic proteins are well known. In view of the above discussed amendments and remarks, applicants request that these rejections be withdrawn.

Claims 24 and 28 were rejected under 35 USC §112, first paragraph, regarding the language "application in cases where angiogenesis is advantageous or desired". All of the prior claims have been canceled and new claims added to the application which recite the language used in the specification, "applications in connection with angiogenesis". In view

of the cancellation of claims 24 and 28 and the addition of new claims to the application, applicants request that this rejection be withdrawn.


Claims 9, 11, 13, 16, 20, and 24-28 were rejected under 35 USC §112, first paragraph. In order to further the prosecution of the present application, claims 9, 11, 13, 16, 20 and 24-28 have been canceled and new claims added to the application which do not reference SEQ ID NO:13. This subject matter will be pursued in a divisional application. In view of the cancellation of new claims 9, 11, 13, 16, 20 and 24-28 and the addition of new claims to the application, applicants request that this rejection be withdrawn.

Claims 24 and 28 were rejected under 35 USC §102(b) as anticipated by Hötten (v24) as evidenced by Hötten (w24) and Yamashita (u24). Hötten and Yamashita are after the priority date of the present application and in view of the cancellation of claims 24 and 28 and the addition of new claims to the application which recite the language used in the specification, "application in connection with angiogenesis", applicants respectfully contend that no new matter is included in the claims and that these references are not available against the present application.

Claims 9, 11, 13, 16, 20 and 24-28 were rejected under 35 USC §103(a) as unpatentable over Celeste. Though applicants respectfully disagree, claims 9, 11, 13, 16, 20 and 24-28 have been canceled and new claims added to the application which do not reference SEQ ID NO:13. In view of these amendments and the effective filing date of Celeste, applicants contend that Celeste is not available as a reference against the present application.

Applicants respectfully submit that all of claims 30-41 are now in condition for allowance. If it is believed that the application is not in condition for allowance, it is respectfully requested that the undersigned attorney be contacted at the telephone number below.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fee for such an extension together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 02-2135.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	Monica Chin Kitts, Registration No.: 36,105				
SIGNATURE				DATE	2/25/02
ADDRESS	Rothwell, Figg, Ernst & Manbeck Suite 800, 1425 K Street, N.W.				
CITY	Washington	STATE	D.C.	ZIP CODE	20005
COUNTRY	U.S.A.	TELEPHONE	202-783-6040	FAX	202-783-6031

Enclosures: Terminal Disclaimer
Journal of Periodontology article
The International Journal of Oral and Maxillofacial Implants article
Journal of Oral and Maxillofacial Surgery article